

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

David C. Kea,

Plaintiff,

v.

Case No. 13-12991

Patrick R. Donahoe, *et al.*,

Sean F. Cox
United States District Court Judge

Defendants.

ORDER STRIKING CERTIFICATES OF SERVICE
AND DIRECTING PLAINTIFF TO PROPERLY SERVE DEFENDANTS

Acting *pro se*, Plaintiff David C. Kea filed this action on July 11, 2013, asserting claims against the following Defendants: 1) Patrick R. Donahoe, U.S Postmaster General; 2) Bruce Plumb; and 3) Gary S. Robinson. Plaintiff's Complaint states that Plumb and Robinson are managers/supervisors at the United States Postal Service. The complaint does not indicate whether Plumb and Robinson are sued in their individual or official capacities, or both.

On August 14, 2013, Plaintiff filed certificates of service (Docket Entry Nos. 7, 8 & 9) that assert that "all parties have been served" and stating that: 1) the United States Postal Service was served by certified mail; 2) Robinson was served by certified mail; and 3) Plumb was served personally and by certified mail.

Rule 4 of the Federal Rules of Civil Procedure governs service and provides, in subsection (i), how to serve the United States, its agencies, officers, and employees. Fed. R. Civ. P. 4(i). That rule provides, in pertinent part:

(1) **United States.** To serve the United States, a party must:

- (A)(i) deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought – or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk – or
- (ii) send a copy by registered or certified mail to the civil-process clerk at the United States attorney’s office.
- (B) send a copy of each by registered or certified mail to the Attorney General of the United States at Washington, D.C.; and
- (C) if the action challenges an order of a non-party agency or officer of the United States, send a copy of each by registered or certified mail to the agency or officer.

(2) Agency; Corporation; Officer or Employee Sued in an Official Capacity.

To serve a United States agency or corporation, or a United States officer or employee sued only in an official capacity, a party must serve the United States and also send a copy of the summons and of the complaint by registered or certified mail to the agency, corporation, officer, or employee.

(3) Officer or Employee Sued Individually. To serve a United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States’ behalf (whether or not the officer or employee is also sued in an official capacity), a party must serve the United States and also serve the officer or employee under Rule 4(e), (f), or (g).

Fed. R. Civ. P. 4(i). Rule 4(i) further provides that the “court must allow a party a reasonable time to cure” its failure to properly serve the United States, or its officers or employees. Fed. R. Civ. P. 4(i)(4).

The Court hereby **STRIKES** the certificates of service filed by Plaintiff (Docket Entry Nos. 7, 8, & 9) because none of the named Defendants in this action have been properly served.

IT IS FURTHER ORDERED that Plaintiff is **DIRECTED** that he must properly serve Defendants, as provided under Fed. R. Civ. P. 4(i), no later than **December 5, 2013**, and file appropriate certificates of service with the Court. **Plaintiff is cautioned that if he fails to properly serve Defendants by that date, this action may be dismissed for failure to effect**

timely service.

IT IS SO ORDERED.

Dated: November 5, 2013

S/ Sean F. Cox
Sean F. Cox
U. S. District Court Judge

I hereby certify that on November 5, 2013, the foregoing document was served upon counsel of record by electronic means and upon David C. Kea and Gary S. Robinson by First Class Mail at the address below:

David C Kea
9105 Grayfield Street
Redford, MI 48239

Gary S Robinson
2920 Maidstone
Trenton, MI 48183

Dated: November 5, 2013

S/ J. McCoy
Case Manager